

ORIGINAL

RICK COURT
U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
JUN - 2 2000
CLERK, U.S. DISTRICT COURT
By *Rn*
Deputy

Plaintiff,

v.

Defendants.

CIVIL ACTION NO.

8-08 CV 0924-D

Plaintiff Manuel A. Benavidez (“Benavidez”) files this Original Complaint for Declaratory and Injunctive Relief against defendants the Irving Independent School District (Texas) (“Irving ISD”), located in Irving, Texas, and Onita C. Patrick (“Patrick”), Valerie Jones (“V. Jones”), Jerry Christian (“Christian”), Rhonda Huffstetler (“Huffstetler”), John Randal Stipes (“Stipes”), Nancy Jones (“N. Jones”) and Adrian T. Jenkins (“Jenkins”), each in their official capacities as members of the Irving ISD Board of Trustees (the “Board, and each individually, a “Trustee”), on personal knowledge as to all allegations concerning his activities and on information and belief as to all remaining allegations.

I.

PRELIMINARY STATEMENT

The Irving Independent School District conducts at-large elections for each of the seven Trustees of the Board (the “Electoral System”). The purpose and effect of this Electoral System

is that each and every Trustee of the Irving ISD's Board responds to the concerns of the same predominately white voters that dominate the at-large electorate in the Irving ISD and, therefore, determine the winning candidate for all positions.

This at-large system is intended to deny representation to the substantial minority of the Irving ISD's voters who are Hispanic—39.8% of Irving's population by an authoritative 2005 estimate. Courts have repeatedly struck down such at-large systems for electing the members of legislative bodies in cities with significant minority populations and have required those cities to adopt single-member district systems. Plaintiff, himself a victim of this intentionally pernicious system, files this lawsuit in order to ensure that the Irving ISD's substantial Hispanic minority has the opportunity to select representation of its choice and to end the Irving ISD's continuing violations of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973, *et seq.*

II.

PARTIES

A. Plaintiff

Plaintiff Benavidez is a Hispanic individual residing at 2108 Meadow Glen, Irving, Texas, 75060.

B. Defendants

1. The Irving ISD is a school district and body corporate located in Dallas County, Texas, and created pursuant to Texas Education Code 11.051(a) and (b), and may be served with process by serving Patrick at 2621 W. Airport Freeway, Irving, Texas 75062.

2. N. Jones is elected to Place 1 of the Board, is a resident of the Irving ISD, and may be served with process at 1821 Piedmont Street, Irving, Texas 75061.

3. Jenkins is elected to Place 2 of the Board, is a resident of the Irving ISD, and may be served with process at 107 Lida Court, Grand Praire, Texas 75050.

4. Stipes is elected to Place 3 of the Board, is a resident of the Irving ISD, and may be served with process at 2212 Cecilia Court, Irving, Texas 75060.

5. V. Jones is elected to Place 4 of the Board, is the Secretary of the Board, is a resident of the Irving ISD, and may be served with process at 3942 Buckingham Drive, Irving, Texas 75038.

6. Patrick is elected to Place 5 of the Board, is the Vice President of the Board, is a resident of the Irving ISD, and may be served with process at 1416 Fulton Drive, Irving, Texas 75060.

7. Christian is elected to Place 6 of the Board, is the President of the Board, is a resident of the Irving ISD, and may be served with process at 600 Ricker Court, Irving, Texas 75061.

8. Huffstetler is elected to Place 7 of the Board, is a resident of the Irving ISD, and may be served with process at 3426 Dartmouth Drive, Irving, Texas 75062.

III.

JURISDICTION AND VENUE

9. Pursuant to 28 U.S.C. § 1331 and Section 2 of the Voting Rights Act of 1965, as amended, 42 U.S.C. § 1973, this Court has jurisdiction over this action.

10. The Court has personal jurisdiction over defendants, and venue is proper in the Northern District of Texas pursuant to 28 U.S.C. § 1391(b), because all Defendants reside in this District.

IV.

FACTS

A. Plaintiff: A Long-Time Resident Of Irving And A Victim Of The Irving ISD's Illegal Electoral System.

11. Plaintiff Benavidez, a Hispanic, is a long-time resident of the City of Irving (the "City" or "Irving") having moved to the City in 1971. From 1971 until his recent retirement, Benavidez was an employee of American Airlines. Benavidez is an outgoing individual with wide personal contacts in Irving and a strong interest in community and civic affairs. He is also an active participant in the political process. These qualities make Benavidez a natural candidate to run, and run successfully, for Trustee of the Irving ISD Board from a predominantly Hispanic voting district. In fact, Benavidez ran in 2000 and again in 2005 for a position on the Irving ISD Board, but lost each time despite the presence of a substantial Hispanic population in the Irving ISD. The Irving ISD elects each of the members of its Board citywide. Bloc voting by whites in district-wide Irving ISD elections, such as those conducted for positions on the Board, almost always results in the defeat of Hispanic candidates, such as Benavidez.

B. The City And The Irving ISD: A City And District In Transition

12. The City was founded in 1903, and likely named after the famous American author, Washington Irving. It was formally incorporated in 1914. The City is the home of the University of Dallas, which opened in 1956, and Texas Stadium, which opened in 1971.

13. In 1925, Irving had only 357 residents. Rapid population growth, however, began in the 1930s, and by the early 1960s, Irving had about 45,000 residents. Irving's overall population reached 155,037 in 1990, and 191,615 in 2000. As of 2005, Irving had an estimated population of 212,262.

14. As rapid as Irving's overall population growth has been, its Hispanic population has grown even faster. The 2000 census reflected that Irving's Hispanic population of 59,838 comprised 31.23 percent of the total population of Irving. Hispanics were also 27.21 percent of its voting age population. This population continues to grow rapidly. The 2005 American Community Survey estimated that Hispanic residents numbered 84,638 out of the total population of 212,262, or 39.87%. Clearly, Irving's ethnic composition has changed rapidly. Unfortunately, this change has not been reflected on the Board.

15. The boundaries of the Irving ISD are essentially congruent with those of the City, except that Valley Ranch and a small part of Las Colinas are outside the Irving ISD, and a small part of the City of Grand Prairie lies within it. The changes in ethnic composition in Irving as a whole described above have been reflected to an even greater extent in the student body of the Irving ISD. While the Hispanic portion of the population of the City is now approaching 50%, according to the Irving ISD's website, its student body is already more than two-thirds Hispanic.

C. The Irving ISD's Electoral System

16. Under the Electoral System, the Seven Trustees that comprise Irving ISD's Board are elected for three-year terms to "places." The Trustee for each place is elected by an identical at-large electorate comprised of the entire school district. The elections are staggered so that approximately one-third of the Trustees are elected in each yearly election. The only residency requirement is that each Trustee must reside within the boundaries of the Irving ISD. This Electoral System permits the possibility that each of the seven Trustees could reside on the same street block.

D. The Discriminatory Effects Of Irving ISD's Electoral System

17. The 2000 census reflects that Irving's voting age population was approximately 27 percent Hispanic. Based on this percentage, one might expect to find two Hispanic Board

members, but there are none. This lack of success suggests that whites vote as a bloc to defeat any candidate preferred by Hispanic voters.

18. Inspection of demographic maps of the Irving ISD based on the 2000 census shows that Hispanics in Irving are concentrated in the southern half of the city, and especially the southeast area. As such, the Hispanic vote is geographically compact. In short, Hispanics are sufficiently numerous and geographically compact that a properly apportioned single-member district plan can be drawn in which Hispanics would form a majority of the population and voting age population in at least two of seven potential districts.

19. In addition, the Electoral System disadvantages Hispanic candidates because, due to ethnic social patterns, it is more difficult for Hispanic voters to solicit white voters than it is for white candidates to do so. Further, Hispanic voters suffer from the effects of past discrimination and have lower average incomes and less education, which also disadvantage the candidates favored by Hispanic voters. In particular, it is more difficult for Hispanic candidates to raise the campaign funds necessary to compete effectively in district-wide elections.

E. Without Court Intervention, The Current Discriminatory Electoral System Will Remain In Place.

20. Unless this Court directs the Irving ISD to design a single member electoral system for Board elections, the current discriminatory Electoral System will continue. Accordingly, the Court should compel the Irving ISD to correct this illegal system for electing the Board and afford all of residents of the Irving ISD an opportunity to elect Trustees of their choice.

V.

CLAIM

A. Violation Of Section 2 Of The Voting Rights Act Of 1965

21. Plaintiff hereby incorporates the allegations in the preceding paragraphs as if fully set forth herein.

22. Section 2 of the Voting Rights Act of 1965, as amended, prohibits any standard, practice, or procedure that results in the denial or abridgement of the right of minorities to vote. Specifically, it forbids any electoral system that denies Hispanics an equal opportunity to that afforded to other members of the electorate to elect representatives of their choice.

23. The Irving ISD's at-large Electoral System for electing its Board dilutes Hispanic voting strength and is not equally open to participation by the Irving ISD's Hispanic voters. Further, the Electoral System results in Hispanics having less opportunity than some other voters to participate in the electoral process and to elect representatives of their choice.

24. Unless enjoined by this Court, the Irving ISD's at-large Electoral System will remain in force, and the Irving ISD will therefore continue to violate Section 2 of the Voting Rights Act by administering, implementing, and conducting future elections for the Board using the at-large Electoral System.

VI.

JURY DEMAND

25. Plaintiff hereby demands a trial by jury of all issues so triable.

VII.

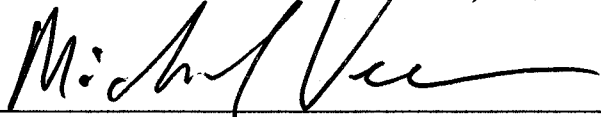
REQUEST FOR RELIEF

WHEREFORE Plaintiff requests that this Court enter an order:

- (1) Declaring that the at-large method of electing members to the Irving ISD Board violates Section 2 of the Voting Rights Act;
- (2) Enjoining the Irving ISD, its agents, and all persons acting in concert with any of them, from administering, implementing, or conducting any future elections for the Irving under the at-large method;
- (3) Ordering the Irving ISD to devise an election plan, and implementation schedule for that plan, that remedies the violation of Section 2. If it fails to devise such a plan, the Court should order into effect a new election plan of its own designed to remedy the violation of Section 2 and order elections to be held pursuant to that plan as promptly as possible;
- (4) Awarding reasonable attorney's fees, reasonable expert fees, and other reasonable litigation expenses pursuant to 42 U.S.C. § 1973l(e) and any other applicable statute;
- (5) Awarding Costs of Court; and
- (6) Granting any other relief, at law or in equity, to which Plaintiff may be entitled and which this Court deems just and proper.

Respectfully submitted,

BICKEL & BREWER STOREFRONT, P.L.L.C.

By: 

William A. Brewer III
State Bar No. 2967035
Michael L. Smith
State Bar No. 24027989
Michael Veaser
State Bar No. 24042088

1717 Main Street
Suite 4800
Dallas, Texas 75201
Telephone: (214) 653-4000
Facsimile: (214) 653-1015

**ATTORNEYS FOR PLAINTIFF
MANUEL BENAVIDEZ**

5147704.9
8001-143

ORIGINAL CIVIL COVER SHEET 08 CV 0924-D

the JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

(a) PLAINTIFFS

Manuel Benavidez

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF
(EXCEPT IN U.S. PLAINTIFF CASES)

RECEIVED

JUN - 2 2008

Dallas

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXASDEFENDANTS Irving ISD(Texas), Onita
Patrick, V. Jones, J. Christian, R.Lee
Huffstettler, J. Stipes, N. Jones, and
Adrian T. Jenkins Dallas

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
TRACT OF LAND INVOLVED.

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Bickel & Brewer, 1717 Main Street,
#4800, Dallas, TX 75201, TEL: 214-653-
4000

ATTORNEYS (IF KNOWN)

Charles Anderson
825 West Irving, Blvd
Irving, TX 75060
Tel: 972-721-2541

BASIS OF JURISDICTION

(PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff ☒ 3 Federal Question
(U.S. Government Not a Party)
- 2 U.S. Government Defendant ☐ 4 Diversity
(Indicate Citizenship of Parties
in item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
(For Diversity Cases Only)(PLACE AN "X" IN ONE BOX FOR PLAINTIFF
AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place
of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place
of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 151 Medicare Act 152 Recovery of Defaulted Student Loans (Excl. Veterans) 153 Recovery of Overpayment of Veteran's Benefits 160 Stockholders' Suits 180 Other Contract 185 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury — Med. Malpractice <input type="checkbox"/> 365 Personal Injury — Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 861 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 156 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1995f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS — Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 881 Agricultural Acts <input type="checkbox"/> 882 Economic Stabilization Act <input type="checkbox"/> 883 Environmental Matters <input type="checkbox"/> 884 Energy Allocation Act <input type="checkbox"/> 885 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY 210 Land Condemnation 220 Foreclosure 230 Rent Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

I. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Plaintiff sues the Irving Independent School District for its violations of the Voting Right Act of 1965, 42 U.S.C.; 1973, et seq.

II. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☒ NOIII. RELATED CASE(S) (See instructions):
IF ANY

JUDGE

DOCKET NUMBER

VTE

SIGNATURE OF ATTORNEY OF RECORD

June 2, 2008

FOR OFFICE USE ONLY